

Date of Meeting: September 1, 2009

#11

**BOARD OF SUPERVISORS
ACTION ITEM**

SUBJECT: Resolution of Intent to Amend the Revised 1993 Zoning Ordinance as necessary, to require special exception approval for large retail establishments

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

STAFF CONTACTS: Marilee Seigfried, Deputy Zoning Administrator
Dan Schardein, Zoning Administrator

RECOMMENDATIONS:

Staff: Staff recommends that the Board of Supervisors adopt a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance as necessary, to require special exception approval for large retail establishments.

Committee: At the May 26, 2009 Transportation and Land Use Committee Meeting, the committee voted 3-1-0 (York opposed) to recommend that the Board of Supervisors direct staff to prepare a resolution of intent to amend the Zoning Ordinance to require special exception approval for large retail establishments.

BACKGROUND:

At their June 16, 2009 business meeting, the Board of Supervisors (BOS) directed Staff to prepare a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance") to manage the size of large retail establishments by requiring special exception approval for retail sales establishments in excess of 75,000 square feet. The proposed Resolution of Intent to Amend is attached as Attachment 1.

The commercial districts selected to be included in the Resolution of Intent to Amend are those zoning districts that do not currently contain specific requirements for "Retail Sales Establishments". Zoning districts where "Retail Sales Establishments" already require special exceptions, such as Commercial Light Industrial (CLI) and Planned Development - Commercial Center - Neighborhood Center (PD-CC-NC), are not included in this Resolution of Intent to Amend. Currently the CLI district requires a special exception for retail sales establishments of any size. The PD-CC-NC district is intended for small scale neighborhood commercial centers where no one use shall exceed 5000 square feet, and where the district size ranges from a maximum of 1.5

acres to 6.0 acres in area. For these reasons, those districts have not been included in the Resolution of Intent to Amend. The amendments will be prepared to clearly set forth, in a centralized location in the ordinance, that any retail establishment of greater than 75,000 square feet will require a special exception in any district that allows retail uses, regardless of existing individual district regulations that may be more restrictive. Staff will, provide additional analysis and review of all zoning districts that permit retail establishments as part of the amendment process.

As part of the amendment process, staff will also provide analysis of existing large retail establishments and the impact of a nonconforming status, should such establishments be affected by these amendments. Staff will also include a review of draft language previously submitted with the Board initiated item on this topic, as part of the development of the new zoning ordinance text for these amendments.

Staff considers this Zoning Ordinance Amendment to be a minor staff effort as a characterization of resource levels needed, and length of time to process. It is estimated that a minor amendment, such as the one proposed herein, may take four to six months to process. The estimated timeframe could lengthen as issues may be identified by the Planning Commission or may otherwise arise during the public process.

ISSUES:

Staff does not anticipate any issues with the adoption of the proposed Resolution of Intent to Amend. Staff has previously identified that the proposed amendments would only apply to properties administered under the current zoning ordinance, and would not apply to previously proffered applications that contain shopping centers and had anticipated large retail establishments on their concept plans. Staff has expressed concerns about the potential limited impact of this type of amendment.

Staff has proposed that this package of amendments be forwarded to the Planning Commission upon completion of their review of the proposed sign ordinance amendments. This is recommended in deference to their workload and the number of nights per week necessary to complete their regular work program and review of other amendments which include Chesapeake Bay regulations and proposed sign ordinance amendments, if initiated by the Board of Supervisors.

FISCAL IMPACT:

There are no direct fiscal impacts associated with this amendment.

ALTERNATIVES:

1. Do not initiate any amendments to the Zoning Ordinance concerning "Large Retail Establishments" at this time.
2. Adopt a Resolution of Intent to Amend the Zoning Ordinance, as necessary, to require special exception approval for large retail establishments in excess of 75,000 square feet.

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DRAFT MOTION:

1. I move that the Board of Supervisors adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, as necessary, as contained in Attachment 1, to implement new regulations to require special exception approval for large retail establishments.

OR

2. I move an alternative motion.

ATTACHMENTS:

1. Resolution of Intent to Amend
2. ZOAM timeline exhibit
3. June 16, 2009 BOS Action Item

A81

Attachment #1
Date: September 1, 2009

BOARD OF SUPERVISORS OF LOUDOUN COUNTY
RESOLUTION OF INTENT TO AMEND THE ZONING ORDINANCE

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Board of Supervisors wish to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance to manage the size of Large Retail Establishments through the special exception process in order to support local businesses, reduce traffic impacts, and minimize the monotony of single occupancy big box stores; and

WHEREAS, the Board of Supervisors wishes to initiate a change to the Revised 1993 Loudoun County Zoning Ordinance to add "Large Retail Establishments" as a Special Exception use in the Planned Development Commercial Center -Community Center (PD-CC-CC), Planned Development Commercial Center – Small Regional Center (PD-CC-SC), Planned Development Commercial Center – Regional Center (PD-CC-RC), Planned Development Town Center (PD-TC), Planned Development Transit Related Employment Center (PD-TREC), Planned Development Transit Related Center (PD-TRC), Planned Development Mixed Use Development (PD-MUD) districts; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance to adopt new or revised provisions on the following matters:

1. Revise Sections 2-903, 4-203(B)(C)(D), 4-204(B)(C)(D), 4-803, 4-804, 4-1004, 4-1005, 4-1104, 4-1105, 4-1353 and 4-1354 to distinguish between retail and large retail establishments.
2. Revise Section 5-600 to add additional regulations for "Large Retail Establishment."
3. Revise and/or add definitions to Article 8 as necessary to define terminology used in the proposed amendments.
4. Revise other Sections to clearly establish that any retail establishment of greater than 75,000 square feet will require a special exception in any district that allows retail uses, regardless of existing individual district regulations that may be more restrictive.
5. Revise other Sections as necessary to implement and maintain consistency with the foregoing amendments.

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BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) that these matters be referred to the Planning Commission for preparation of ordinances; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and the Board of Supervisors' action.

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Current Major Efforts and Estimated Completion Dates

A84
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Status of Initiative

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~~A-4~~

Date of Meeting: June 16, 2009

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Attachment #3
**BOARD OF SUPERVISORS
ACTION ITEM**

SUBJECT: Transportation and Land Use Committee Report: Amendment to the Zoning Ordinance/ Special Exception for Large Retail Establishments

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

STAFF CONTACT: Marilee Seigfried, Deputy Zoning Administrator

RECOMMENDATIONS:

Staff: Staff recommends not taking action at this time.

Committee: At the May 26, 2009 meeting, the Transportation and Land Use Committee voted 3-1-0 (York opposed) to recommend that the Board of Supervisors direct staff to prepare a resolution of intent to amend the Zoning Ordinance to require special exception approval for large retail establishments.

BACKGROUND:

On November 18, 2008, the Board of Supervisors approved Supervisor Miller's initiative for staff to present options for amending the zoning ordinance to require a special exception for large retail establishments of more than 75,000 square feet. This motion passed the Board by a vote of 8-1 (York opposed).

On January 26, 2009, at the Transportation and Land Use Committee, staff recommended that no further action be taken on the November 18, 2008 motion due to minimal impacts that may be realized from the amendment. After a review of the background of planning and zoning conditions relative to retail uses, the Committee voted to take no action at that time. (3-0-1, York absent).

On May 26, 2009, at the Transportation and Land Use Committee, the request to consider this possible zoning ordinance amendment was reintroduced to require special exception approval for large retail establishments in excess of 75,000 square feet. The Committee voted 3-1 (York opposed) to recommend that the Board of Supervisors direct staff to prepare a Resolution of Intent to amend the Zoning Ordinance to require large retail establishments to obtain special exception approval (the "amendment").

Also at the May 26, 2009 meeting, the Committee expressed concerns about the current workload and directed staff to provide a list of all active and potential Zoning Ordinance Amendments, their timeline and the ability to complete these projects within the remainder of the Board's term. See Attachment #1.

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ISSUES:

1. The proposed amendment would apply only to properties administered under the current zoning ordinance. The amendment will not apply to properties located within the Route 28 Tax District unless those properties elect to rezone into the current zoning ordinance or the incorporated towns.
2. The proposed amendment would not apply to previously proffered applications that contain shopping centers and anticipated large retail establishments on their concept plans.

FISCAL IMPACT: There are no direct fiscal impacts associated with this amendment; however, limited staffing resources may require that staff be diverted from other Board priorities.

ALTERNATIVES:

The Board of Supervisors may give consideration to the following options regarding possible amendments:

1. Do not initiate an amendment at this time.
2. Direct staff to review previous approvals of large retail establishments to determine how the following issues were addressed: traffic impact, design elements, parking facilities, impervious surfaces, and compatibility to surroundings was addressed.
3. Consider an amendment limited to specific districts that would be applicable should previously approved projects pursue future rezonings that may occur to allow for adjustments due to market/economic conditions or other changing circumstances. In this option, the Board could recommend that staff be directed to prepare a Resolution of Intent to Amend the Zoning Ordinance to require large retail establishments to obtain special exception approval.

DRAFT MOTION(S):

1. I move that the Board of Supervisors take no action on a proposed zoning ordinance amendment to require special exception approval for large retail establishments. Or,
2. I move that the Board of Supervisors direct staff to prepare a resolution of intent to amend the Zoning Ordinance to require special exception approval for large retail establishments. Or,
3. I move an alternate motion.

ATTACHMENTS:

1. List of Zoning Amendments and staff projects
2. May 26, 2009 TLUC Item #8, Potential Amendment to the Zoning Ordinance/ Management of Locations of Retail Sales Establishments

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Attachment #1
List of Zoning Ordinance Amendments and Staff Projects
Revised June 2009

Zoning Projects (*Date initiated and level of effort required* in parentheses*)

Active ZOAMs:

1. Chesapeake Bay Amendment (*stakeholders meeting and draft language, Major*)
2. Limestone Overlay District (*currently with PC, Medium*)
3. Parking in Front Yards (7/21/09, *Minor*)
4. Sign Regulations (7/21/09, *Major*)
5. Farm Markets/ Section 5-6026 Amendment (2/17/09, *Medium*)

Potential ZOAMs identified by others:

1. Annual Review (*Major*)
2. Large Retail Establishments (*Major*)
3. Mountainside Overlay District (MDOD) (*Major*)
4. Steep Slope Standards for consistency with Green Infrastructure Policies (*Major*)
5. Affordable Dwelling Unit regulations (*Major*)
6. Code (*Medium*)
 - Code of Virginia changes for Administrative Warrants (*Minor*)
 - Article 6 amendment regarding rezoning and special exception process to reflect State Code and address checklist requirements (*Minor*)
 - Nonconforming Use regulation amendment to reflect State Code (*Minor*)
 - Amendments to reflect State Code disclosure requirement changes (*Minor*)
 - Amendments to reflect State Code changes that allow a structure approved by variance to expand without another public hearing (*Minor*)

Active Major Legislative Applications

Kincora Village Center - Rezoning
Stonewall Secure Business Park - Rezoning
Dulles Town Center - Rezoning
Hybrid Energy Park - Special Exception

Appeals

Chrysalis
Potomac Falls
Pidgeon Hill Drive
Moe Gharai

**Level of effort defined as: Minor, 4-6 months; Medium, 6-9 months; Major, 9+months*

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Attachment #1
List of Zoning Ordinance Amendments and Staff Projects

	2009		2010				2011					
	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q
Active ZOAMs												
Chesapeake Bay Amendment (1 year total)												
Limestone Overlay District (6 months total, currently at Planning Commission)												
Parking in Front Yards (5-6 months total -to BOS with Intent to Amend, July 2009)												
Sign Regulations (1 year total)												
Farm Markets/ Section 5-6026 Amendment (6-9 months total)												
Potential ZOAMs												
Annual Review												
Large Retail Establishments												
Mountainside Overlay District (MOD)												
Sleep Slope Standards for consistency with Green Infrastructure Policies												
Affordable Dwelling Unit regulations												
Code of Virginia changes for Administrative Warrants												
Article 6 amendment regarding rezoning and special exception process to reflect State Code and address checklist requirements												
Nonconforming Use regulation amendment to reflect State Code												
Amendments to reflect State Code disclosure requirement changes												
Amendments to reflect State Code changes that allow a structure approved by variance to expand without another public hearing												
Active Major Legislative Applications												
Kincora Village Center - Rezoning												
Stonewall Secure Business Park - Rezoning												
Dulles Town Center - Rezoning												
Hybrid Energy Park - Special Exception												
Appeals												
Chrysalis												
Potomac Falls												
Pidgeon Hill Drive												
Moe Gharai												

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Attachment #2

MEMORANDUM

Date: May 26, 2009

To: Transportation and Land Use Committee Members **# 8**

From: Charles Yudd, Acting Deputy County Administrator

Subject: Potential Amendment to the Zoning Ordinance/ Management of Locations of Retail Sales Establishments

Staff

Contacts: Dan Schardein, Zoning Administrator
Marilee Seigfried, Deputy Zoning Administrator

BACKGROUND:

On November 18th, 2008, the Board of Supervisors approved Supervisor Miller's initiative for staff to present options for amending the zoning ordinance with respect to possibly requiring a Special Exception for retail buildings more than 75,000 square feet. This motion passed by a vote of 8-1 (York opposed).

On January 26th, 2009, staff presented the attached report to the Transportation & Land Use Committee with the observation that due to minimal impact, a recommendation of no action at that time would be appropriate. The Committee concurred and voted to take no action at that time. (3-0-1, York absent).

At the request of Supervisor Miller, the Committee Chairman has asked that this item be included on the agenda and that a vote be taken on the matter and forwarded to the Board of Supervisors for their consideration. Supervisor Miller's staff has prepared summary points included in Attachment 1 for the Committee's continued review and discussion.

DRAFT MOTION(S)

1. I move that the Transportation & Land Use Committee recommend to the Board of Supervisors that no action be taken on a proposed zoning amendment to require special exception approval for large retail establishments. Or,
2. I move that the Transportation & Land Use Committee recommend to the Board of Supervisors that staff be directed to prepare a resolution of intent to amend the Zoning Ordinance to require special exception approval for large retail establishments. Or,
3. I move an alternate motion

ATTACHMENTS

1. Additional Points for Consideration from Supervisor Miller
2. January 26, 2009 TLUC Item #7, Potential Amendment to the Zoning Ordinance/ Management of Locations of Retail Sales Establishments

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Supervisor Miller would like to reintroduce a potential amendment to the zoning ordinance to manage the size of large retail sales establishments to the Transportation Land Use committee.

On November 18th, 2008, the Board of Supervisors approved Supervisor Miller's initiative for staff to review amending the zoning ordinance to require a Special Exception for retail buildings more than 75,000 square feet. This motion passed the Board by a vote of 8-1.

On January 26th, 2009, staff reported to the Transportation Land Use committee that this zoning amendment would have minimal impact in the County because of large amount of land already rezoned and approved for retail centers.

This zoning amendment, however, does and would have several opportunities for applicability in Loudoun.

1. There is still land available that is zoned for retail that may come before the Board to approve retail establishments with stores larger than 75,000 square feet. There are two examples of this: South Riding Market Square II, which just passed the Board, has the potential for at least one big box store and Kincora which is planning to have for two individual stores of up to 80,000 sq. ft. If the County had this zoning amendment in place before the approval of either of these applications the large big box stores could have been examined more closely.
2. The County has asked applicants to reduce the size of their planned retail stores to under a certain square footage, with the most recent example of this being South Riding Market Square II, which was asked to keep these establishments under 90,000 sq. ft. The applicant refused to reduce the square footage citing that the current zoning ordinance did not preclude such development. Applicants and developers will not comply with the County's request without an amendment to the zoning ordinance that requires a Special Exception.
3. Older retail establishments may decide in the next several years to refurbish their plazas or change the layout of centers completely in an effort to revive business and draw more traffic to the stores. During this process, retail developments that do not currently have big box stores in them may decide to add one since there are no limitations. Having a Special Exception in place for stores in excess of 75,000 sq. ft. would require the approval of the Board.
4. Supporting local business and small entrepreneurs in the County is a critical outcome of this zoning amendment. Having a Lowes, Walmart, Target, and Home Depot in every corner of the County discourages the local retail business owner and makes it difficult for them to compete with the convenience and cheap prices of the big box stores. Traffic impacts are reduced with smaller developments and walk-ability from shop to shop promotes a sense of community.
5. Surrounding counties, such as Fairfax, Prince William and Montgomery, have similar big box legislation approved. These zoning ordinances have certainly not deterred companies from coming to their county and opening stores, however

large retail establishments have adjusted to oblige by the updated zoning ordinances. This has minimized the monotonous view of single occupancy big box stores and allowed for them to incorporate into the surrounding environment.

Given these reasons, Supervisor Miller requests that the Transportation Land Use committee send this item back to the Board with the recommendation of an intent to amend the zoning ordinance to include a Special Exception for retail establishments greater than 75,000 sq. ft. Supervisor Miller recognizes that if the intent to amend passes the Board, staff has a heavy workload, however, because of the potential for large retail establishments to affect Loudoun County in the future, these amendments will be important for zoning staff to address at the soonest possible date.

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Date of Meeting: January 26, 2009

**BOARD OF SUPERVISORS
TRANSPORTATION AND LAND USE COMMITTEE
ACTION ITEM**

Item #07

SUBJECT: Potential Amendment to the Zoning Ordinance/ Management of Locations of Retail Sales Establishments

STAFF CONTACT:

Terrance Wharton, Director, Acting Zoning Administrator
Marilee Seigfried, Deputy Zoning Administrator

RECOMMENDATIONS:

Staff: Based on the minimal impacts that may be realized as outlined in the report, staff recommends not taking action at this time.

BACKGROUND:

At the November 18, 2008 Board of Supervisors meeting, Supervisor Miller presented information describing how Fairfax County, Prince William County and Montgomery County regulate large retail establishments, commonly referred to as "big-box establishments", through the respective county zoning ordinances (Attachment 1). Supervisor Miller recommended amending the County's Zoning Ordinance to require a Special Exception for large retail establishments that exceed 75,000 square feet and further consider implementing additional standards related to design and impact mitigation as may be deemed prudent. The Board of Supervisors voted 8-1 to direct staff to create options for amending the Loudoun County Zoning Ordinance to establish a Special Exception requirement for large retail establishments in excess of 75,000 square feet or some other square footage recommended by staff. The Board further directed staff to present options for these Zoning Ordinance Amendments at the first possible meeting of the Board's Transportation and Land Use Committee (Attachment 2).

Comprehensive Plan policies generally limit the development of large-scale retail uses within the County to areas within a Destination Retail Area and Overlay or designated for Hybrid Retail Center uses, as shown on the Planned Land Use maps (Attachments 3 and 4). Further, the County's Revised General Plan identifies three major retail corridors where large-scale retail uses are envisioned: Route 28, Route 7, and Route 50. Destination Retail Centers, as described in the Countywide Retail Policy Plan, are automobile-oriented, require a regional market, and typically serve 5,000 to 30,000 households. Destination Retail offers a variety of shopping options, including: shopping centers, malls, freestanding large superstores and big-box retail uses.

Major retail uses have developed in the Route 28 and Route 7 corridors and include: Dulles Town Center, Dulles Town Crossing and Dulles 28 Center, Potomac Run Plaza, Costco and Regal Plaza/Park City Center. These projects are within the Route 28 Tax District and would not be affected by this amendment unless they rezone into the Revised 1993 Zoning Ordinance.

Along the Route 50 Corridor, large-scale retail uses are envisioned within both the Destination Retail Center Overlay and, to a limited degree, within the Hybrid Retail Center area, as shown on Attachment 4. Hybrid Retail Centers generally consist of between 250,000 and 450,000 square feet and provide for convenience and routine shopping needs, including comparative and specialty goods that can also be found in Destination Retail Centers. Two retail centers were recently approved north of Route 50 and west of Loudoun County Parkway: Dulles Landing and Arcola Center. Dulles Landing is comprised of approximately 800,000 square feet. Two individual tenants exceeding 75,000 square feet each are depicted on the concept development plan, including the 203,000 square foot Wal-Mart currently under site plan review. The other approved center, Arcola Center, is comprised of approximately 660,000 square feet. Within this development, site plans are approved for a 185,000 square foot Target and a 139,000 square foot Lowes. These proffered concept development plans would not be affected by this proposed amendment. Also, a 387,000 square foot expansion of South Riding Market Square is currently under review for additional retail uses.

Three smaller retail centers are located south of Route 50: East Gate Two, Avonlea Plaza, and Stone Ridge North Retail Center. East Gate Two was approved for approximately 203,000 square feet of retail and office uses, the proffered Design Guidelines include elements such as building compatibility, design, massing and screening. Avonlea Plaza was approved for approximately 300,000 square feet of retail uses: the proffered concept development plan shows potential large retail. Stone Ridge North Retail Center was approved for approximately 300,000 square feet, site plans have been approved for approximately 143,000 square feet and approximately 76,000 square feet have been constructed.

The County's existing large retail establishments are currently located within the PD-CH (Planned Development-Commercial Highway), PD-SC (Planned Development-Shopping Center), PD-CC-SC (Planned Development-Commercial Center-Small Regional Center), and PD-CC-RC (Planned Development-Commercial Center-Regional Center) zoning districts. Properties zoned PD-CH and PD-SC are located in the Route 28 Tax District, which, as stated above, will not be affected by this proposed amendment. Properties zoned PD-CC-SC and PD-CC-RC are either subject to proffered concept plans or other proffered documents; they also will not be affected by this proposed amendment. Any changes to these proffers require Board approval. Attachment 5 illustrates where these zoning districts are located. Attachment 6 provides an overview of other zoning districts that allow retail uses.

ISSUES:

1. The proposed amendments would apply only to properties administered under the current zoning ordinance. The amendments will not apply to property within the Route 28 Tax District unless they elect to rezone into the current zoning ordinance.
2. The proposed amendments would not apply to proffered shopping centers that anticipated large retail establishments on their concept plans. This issue was also recognized by Fairfax staff when evaluating the proposal for a special exception requirement for retail stores 80,000 square feet or larger.
3. In most cases a property will be required to rezone to a commercial zoning district, in which the Board will have the opportunity to negotiate the terms of development in order to mitigate impacts.

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FISCAL IMPACT: There are no direct fiscal impacts associated with this amendment; however, limited staffing resources may require that staff be diverted from other Board priorities.

ALTERNATIVES:

The Board of Supervisors requested that options be created to establish a possible special exception requirement for large retail establishments. The committee can give consideration to the following options regarding possible amendments:

1. Do not initiate any amendments at this time.
2. Direct staff to review previous approvals to determine how the impact of large retail uses, referenced in the November 18, 2008 Board initiated item with regard to; traffic impact, design elements, parking facilities, impervious surfaces, and compatibility to surroundings was addressed.
3. Consider amendments limited to specific districts that would be applicable should previously approved projects pursue future rezonings that may occur to allow for adjustments due to market/economic conditions or other changing circumstances. In this option, the committee could recommend that staff be directed to prepare a Resolution of Intent to Amend the Zoning Ordinance to require large retail establishments to obtain special exception approval.

DRAFT MOTION(S):

1. I move that the Transportation and Land Use Committee take no action at this time.
2. I move that the Transportation and Land Use Committee direct staff to prepare a Resolution of Intent to amend the Zoning Ordinance to require large retail establishments to obtain special exception approval.

Or

3. I move an alternate motion.

ATTACHMENTS:

Attachment 1: Item 8, November 18, 2008 Board of Supervisors Meeting

Attachment 2: Summary matrix of Fairfax County, Prince William County and Montgomery County retail requirements

Attachment 3: CPAM 1996-0001 Countywide Retail Policy Plan Map

Attachment 4: CPAM 2005-0007 Arcola Area/ Route 50 Comprehensive Plan Map

Attachment 5: Map: Zoning Districts allowing Destination Retail Centers

Attachment 6: Zoning Districts Allowing Retail Establishments

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Attachment #2

Date of Meeting: November 18, 2008

LOUDOUN COUNTY BOARD OF SUPERVISORS ACTION ITEM BOARD MEMBER INITIATIVE

Item # 08

**SUBJECT: AMEND THE LOUDOUN COUNTY ZONING ORDINANCE TO BETTER
MANAGE AND LOCATE LARGE RETAIL SALES ESTABLISHMENTS**

INITIATED BY: Supervisor Stevens Miller

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

RECOMMENDATION: Supervisor Miller is recommending that the Board of Supervisors consider amending the Zoning Ordinance to require a Special Exception for large retail establishments that exceed 75,000 square feet and further consider implementing additional standards related to design and impact mitigation as may be deemed prudent. Please see attachment #1 for relevant sections of the Zoning Ordinance and possible language.

BACKGROUND:

Over the past decade, jurisdictions throughout Northern Virginia and the Greater Metropolitan Washington region have proposed and adopted amendments to their zoning ordinances to manage the size and location of large retail establishments, commonly referred to as "big box" stores. Loudoun County currently has no comparable legislation. As other jurisdictions have controlled the locating of large retail establishments, including Prince William and Fairfax Counties in Virginia and Montgomery County in Maryland, Loudoun has already seen an increased interest in large retail projects that have a more regional focus. In recent years Loudoun County has approved a number of large retail developments, particularly in the Route 50 corridor, such as Dulles Landing and the Arcola Center projects. While some projects may be compatible with wise growth strategies, the trend should be managed and the County should not assume that all retail developments are created equal. Loudoun County should be empowered to better manage where such large scale retail uses are permitted to protect smaller merchants, limit traffic impacts, promote walk-ability, and ensure compatibility with surrounding neighborhoods.

ISSUES:

Large retail establishments bring impacts to the areas where they locate. Supervisor Miller considers the careful and strategic placement of these establishments to be a quality of life issue. Retail centers that draw upon regional audience bring additional concerns relating to the traffic they generate, the environmental impacts they engender, and the appropriateness of their size and design within the surrounding area. Existing policies related to retail activities should be reviewed for their applicability to the nature of the Zoning Amendments this item contemplates.

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Increasing square footage translates into more traffic. Engineers calculate estimated car trips based on type of retail and the square footage of gross floor area (GFA). Large sized stores have a regional customer base and generate many more trips than a smaller store aimed at local neighborhoods. Given the fragile levels of service on Loudoun's roads, the Board of Supervisors should consider the traffic impacts of large retail establishments and how to best ensure the allowance of a variety of retail uses while controlling for negative consequences related to traffic.

Similarly, large retail stores require large parking facilities creating massive impervious surfaces that often have environmental implications related to storm water runoff. Recently, the Board dealt with such a problem during a review of an outdoor sales component for a Wal-Mart in the Dulles Landing development.

Very large retail stores can become imposing and dominant through their sheer size, but also through the limited design standards used in their facades. The imposing size and monotonous design elements make it difficult for large retail stores to remain compatible or "fit-in" with surroundings that are comprised of anything other than additional large retail developments. The Board may also wish to consider additional standards related to design, similar to the Fairfax County Ordinance (attachment #3).

DRAFT MOTION:

"I move that the Board of Supervisors direct staff to review this items and the attachments to create options for amending the Loudoun County Zoning Ordinance to establish a Special Exception requirement for large retail establishments in excess of 75,000 square feet or some other square footage recommended by staff. I further move that the Board of Supervisors direct staff to present options for these Zoning Ordinance Amendments to the first possible meeting of the Board's Transportation and Land Use Committee.

ATTACHMENTS:

- #1 - Summary of Proposed Ordinance, relevant sections of the Zoning Ordinance and suggested language for changes to the Loudoun County Zoning Ordinance.
- #2 - Fairfax County Staff Report, Proposed Zoning Ordinance Amendment - Large Retail Sales Establishments
- #3 - Fairfax County Zoning Amendment Regarding Large Retail Sales Establishments
- #4 - Prince William County Zoning Text Amendment Regarding Large Retail Uses
- #5 - Press Release from Montgomery County regarding Zoning and Large Retail Uses
- #6 - Map displaying relative sizes of various large retailers.

Staff Contact(s): Shaun Daniels, Staff Aide to Supervisor Stevens Miller

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Attachment #1

Summary Matrix of Fairfax County, Prince William County and Montgomery County Retail Requirements

	Description	Size	Requirement
Fairfax County	Retail Sales Establishment – Large: Any establishment containing 80,000 square feet or more of gross floor area wherein the primary occupation is the sale of merchandise for the consumption by the immediate purchaser.	80,000+ square feet	<u>By-right:</u> use is located within a building that contains a minimum of 1,000,000 square feet of gross floor area with at least six (6) principal uses all of which are connected to form a continuous structure <u>Special exception:</u> by Board approval after determining the establishment will be compatible with adjacent properties
Prince William County	Large, Freestanding Retail Use (Big Box): any large single occupant building or unit used for retail purposes exceeding 80,000 square feet of gross floor area located in a building or unit, or within a building group of less than 5 units connected by party walls, partitions, canopies and similar features, and designed as a single or freestanding commercial use or group.	80,000 + square feet	<u>Special Use Permit:</u> in addition to conditions approved with a special use permit, minimum standards include architectural and design guidelines. <u>Exemptions:</u> RCC, Regional Commercial Center district and if a large, freestanding retail bog box use replaces an existing retail footprint.
Montgomery County	"Big Box" Stores: any retail store in certain commercial zones and includes a pharmacy and full-line grocery store	120,000 + square feet	<u>Special Exception:</u> by board approval <u>Exemptions:</u> club and membership stores

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Attachment #2

Date of Meeting: November 18, 2008

LOUDOUN COUNTY BOARD OF SUPERVISORS ACTION ITEM BOARD MEMBER INITIATIVE

Item # 08

SUBJECT: AMEND THE LOUDOUN COUNTY ZONING ORDINANCE TO BETTER
MANAGE AND LOCATE LARGE RETAIL SALES ESTABLISHMENTS

INITIATED BY: Supervisor Stevens Miller

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

RECOMMENDATION: Supervisor Miller is recommending that the Board of Supervisors consider amending the Zoning Ordinance to require a Special Exception for large retail establishments that exceed 75,000 square feet and further consider implementing additional standards related to design and impact mitigation as may be deemed prudent. Please see attachment #1 for relevant sections of the Zoning Ordinance and possible language.

BACKGROUND:

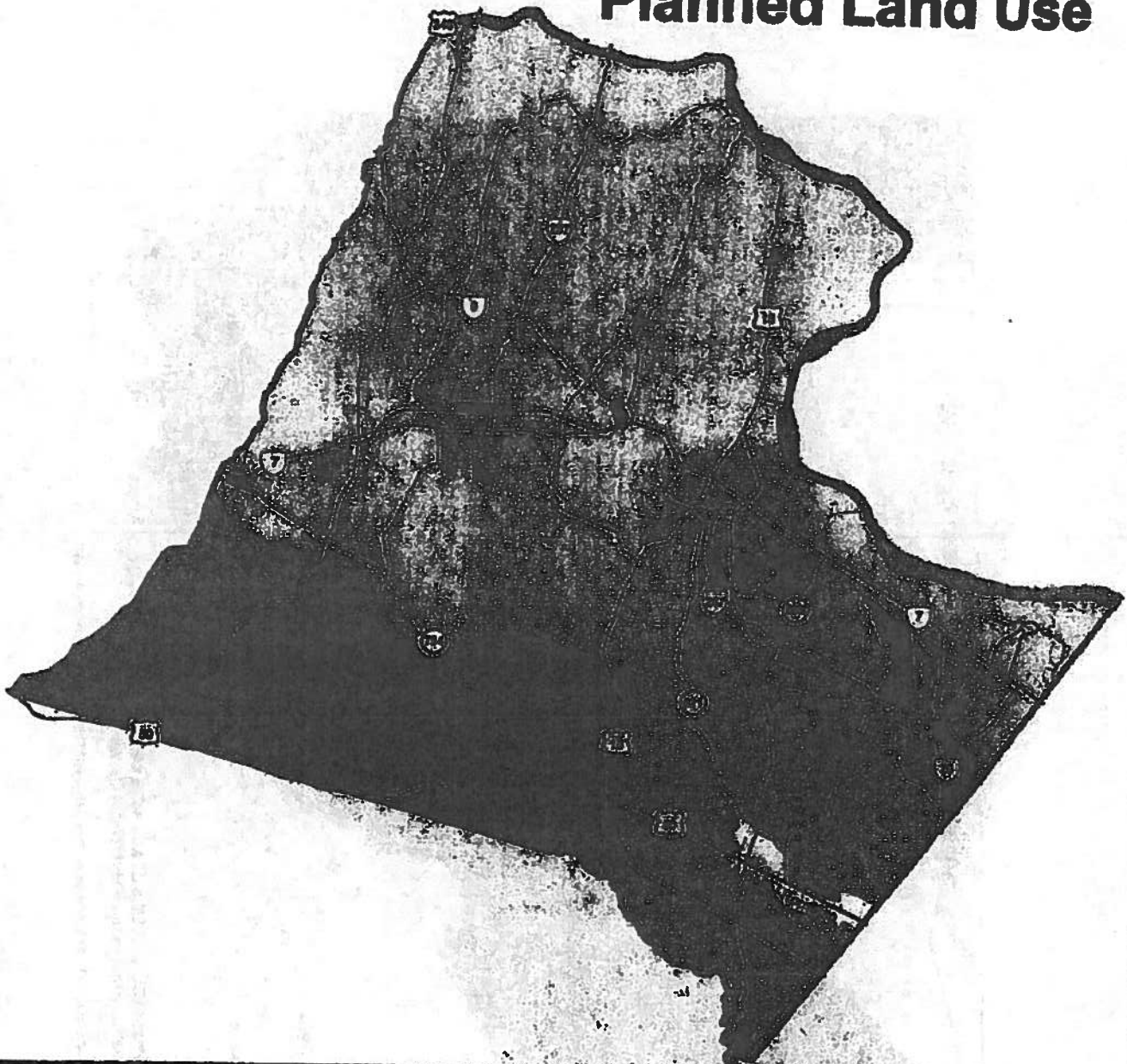
Over the past decade, jurisdictions throughout Northern Virginia and the Greater-Metropolitan Washington region have proposed and adopted amendments to their zoning ordinances to manage the size and location of large retail establishments, commonly referred to as "big box" stores. Loudoun County currently has no comparable legislation. As other jurisdictions have controlled the locating of large retail establishments, including Prince William and Fairfax Counties in Virginia and Montgomery County in Maryland, Loudoun has already seen an increased interest in large retail projects that have a more regional focus. In recent years Loudoun County has approved a number of large retail developments, particularly in the Route 50 corridor, such as Dulles Landing and the Arcola Center projects. While some projects may be compatible with wise growth strategies, the trend should be managed and the County should not assume that all retail developments are created equal. Loudoun County should be empowered to better manage where such large scale retail uses are permitted to protect smaller merchants, limit traffic impacts, promote walk-ability, and ensure compatibility with surrounding neighborhoods.

ISSUES:

Large retail establishments bring impacts to the areas where they locate. Supervisor Miller considers the careful and strategic placement of these establishments to be a quality of life issue. Retail centers that draw upon regional audience bring additional concerns relating to the traffic they generate, the environmental impacts they engender, and the appropriateness of their size and design within the surrounding area. Existing policies related to retail activities should be reviewed for their applicability to the nature of the Zoning Amendments this item contemplates.

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A-18

Planned Land Use



Planned Land Use

- Towns/Airport
- Residential
- High Density Residential
- Business
- Keynote Employment
- Industrial
- Extractive Industry
- Corridor Retail
- Existing Rural Village
- Transition
- Rural - (Base Density 1 du/20 acres)
- Rural - (Base Density 1 du/40 acres)
- Rural - (Within Town JLMA)



- Urban Center
- Major Roads
- Potential Transit Node Location
- Destination Retail Areas
- Special Activities Area
- County Boundary

Notes

Revised July 23, 2001, amended through December 6, 2008.
This map represents generalized planned land use and does not reflect existing zoning or land use.

Land uses within Purcellville JLMA subject to Purcellville Urban Growth Area Management Plan.

For illustrative purposes, the centerline of Highways and the Dulles Greenway are shown as boundaries between Planned Land Uses. This is not meant to imply that the Comprehensive Plan supports the development of any land use within the road right of way.

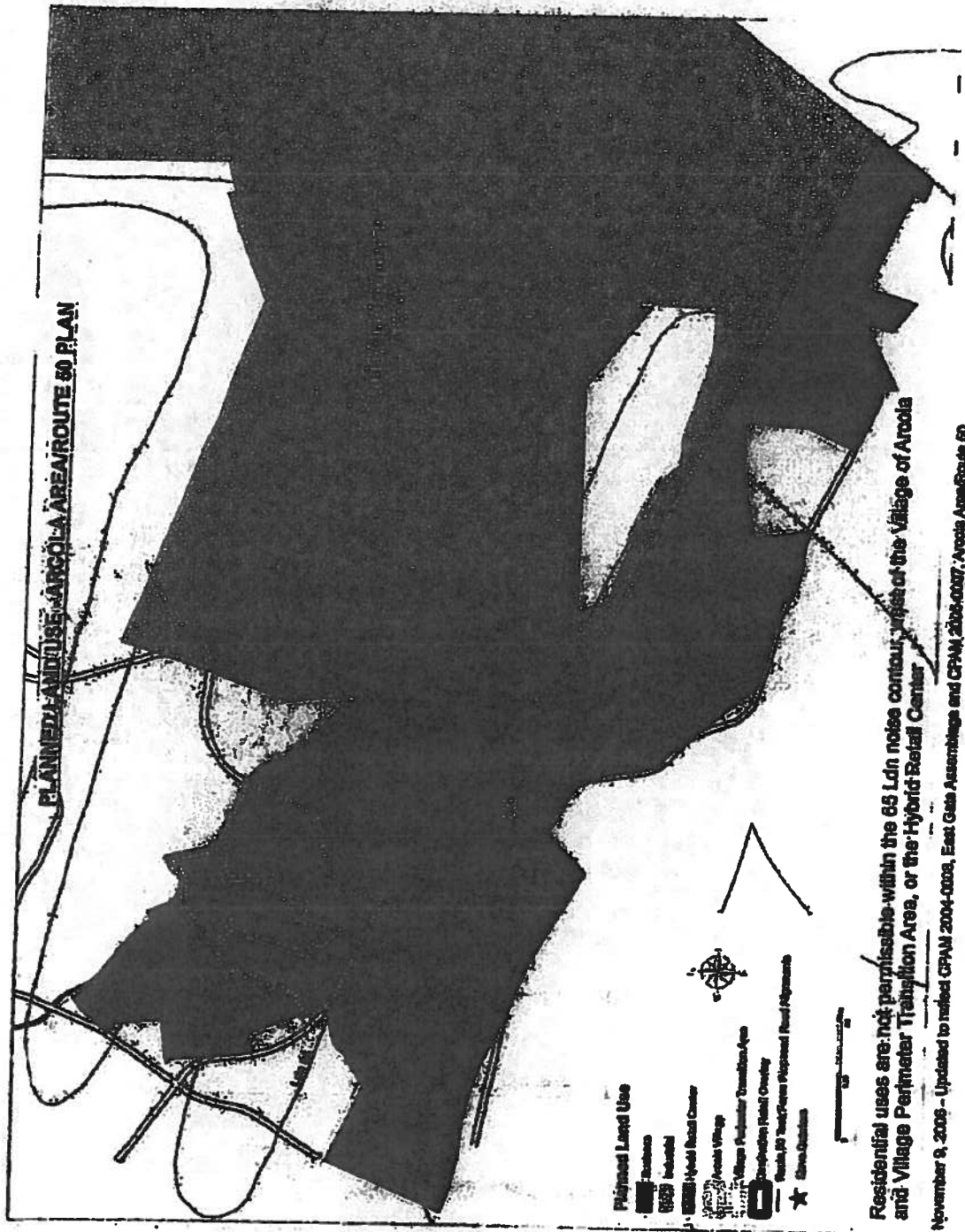
This map reflects CPAM revisions CPAM 2004-0007, CPAM 2004-0008, CPAM 2004-0009, CPAM 2004-0025, CPAM 2004-0028, CPAM 2005-0005, CPAM 2005-0007, CPAM 2006-0002.

For land uses in the Arcola Route 50 area please use the Arcola / Route 50 Planned Land Use Map.

Sources: Loudoun County Planning Department and Office of Mapping and Geographic Information
Map Number 2007-019834

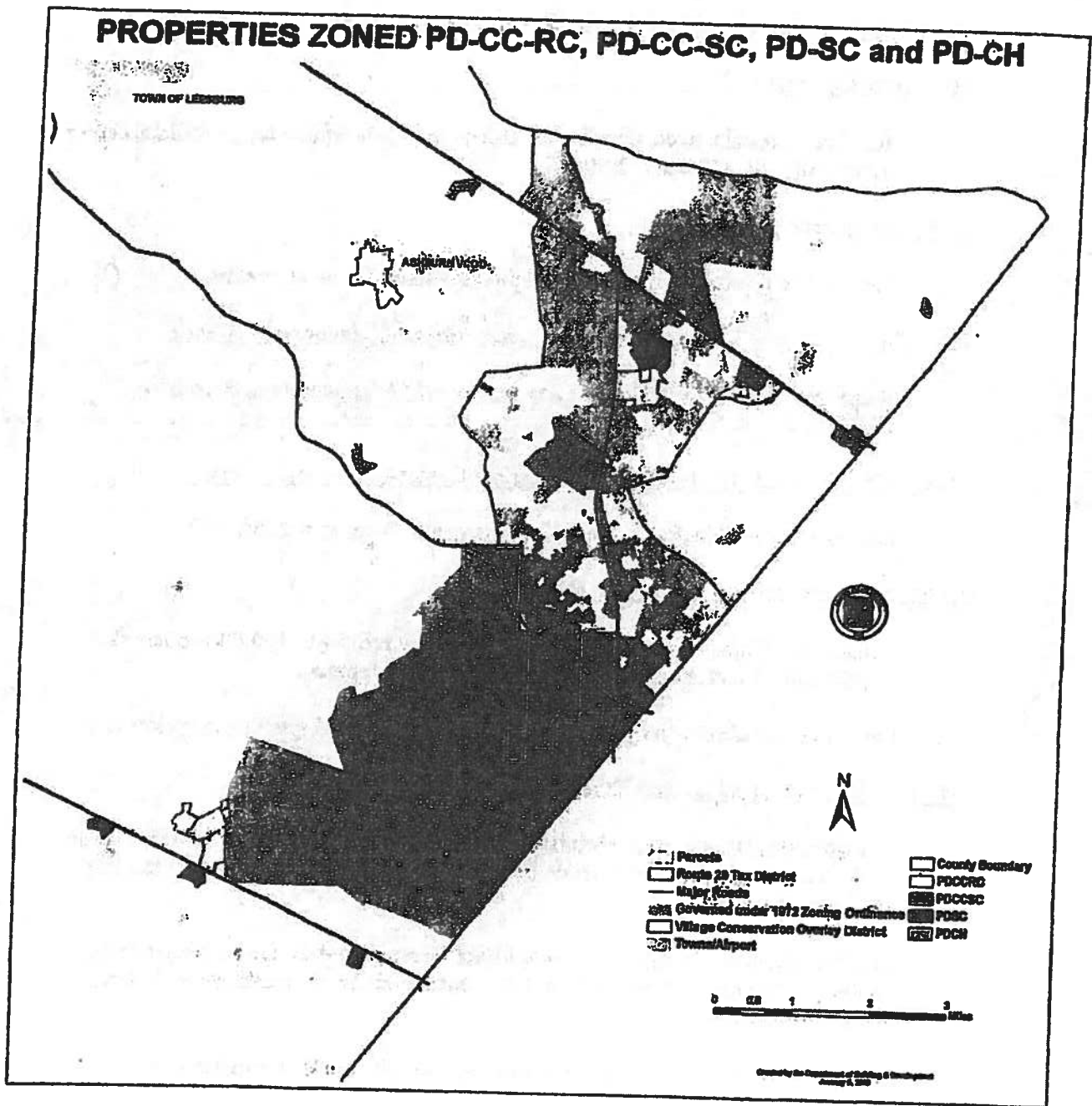
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Attachment #4



A101
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Attachment #5



A102
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ATTACHMENT #6

Additional Zoning Districts Allowing Retail Establishments

RC (Rural Commercial)

Requires a special exception for any use over 10,000 square feet, excludes certain agricultural uses. Section 2-904(A)

CLI (Commercial Light Industry)

Requires a special exception for Retail Sales Establishment. Section 3-904 (T)

PD-CC-NC (Planned Development-Commercial Center-Neighborhood Center)

Requires a special exception for any use over 5,000 square feet. Section 4-204(A)(1)

PD-CC-CC (Planned Development-Commercial Center-Community Center)

May not be feasible due to access requirements. Section 4-206(D)(2)

PD-TC (Planned Development-Town Center)

Lansdowne Village Greens-- Retail is limited by proffer to 150,000 square feet, 75,000 square feet are no longer available for development.

One Loudoun Center (portion) -- Proffered permitted and special exception uses.

PD-TRC (Planned Development- Transit Related Development)

Moorefield Station -- Large Retail would not be supported by the proffered design guidelines and may not be feasible due to minimum height requirement in Inner and Outer core of 35'.

Loudoun Station - Large Retail would not be supported by the proffered design guidelines and may not be feasible due to minimum height requirement in Inner and Outer core of 35'.

Dulles Parkway Center -- The maximum amount of retail is limited by proffer.

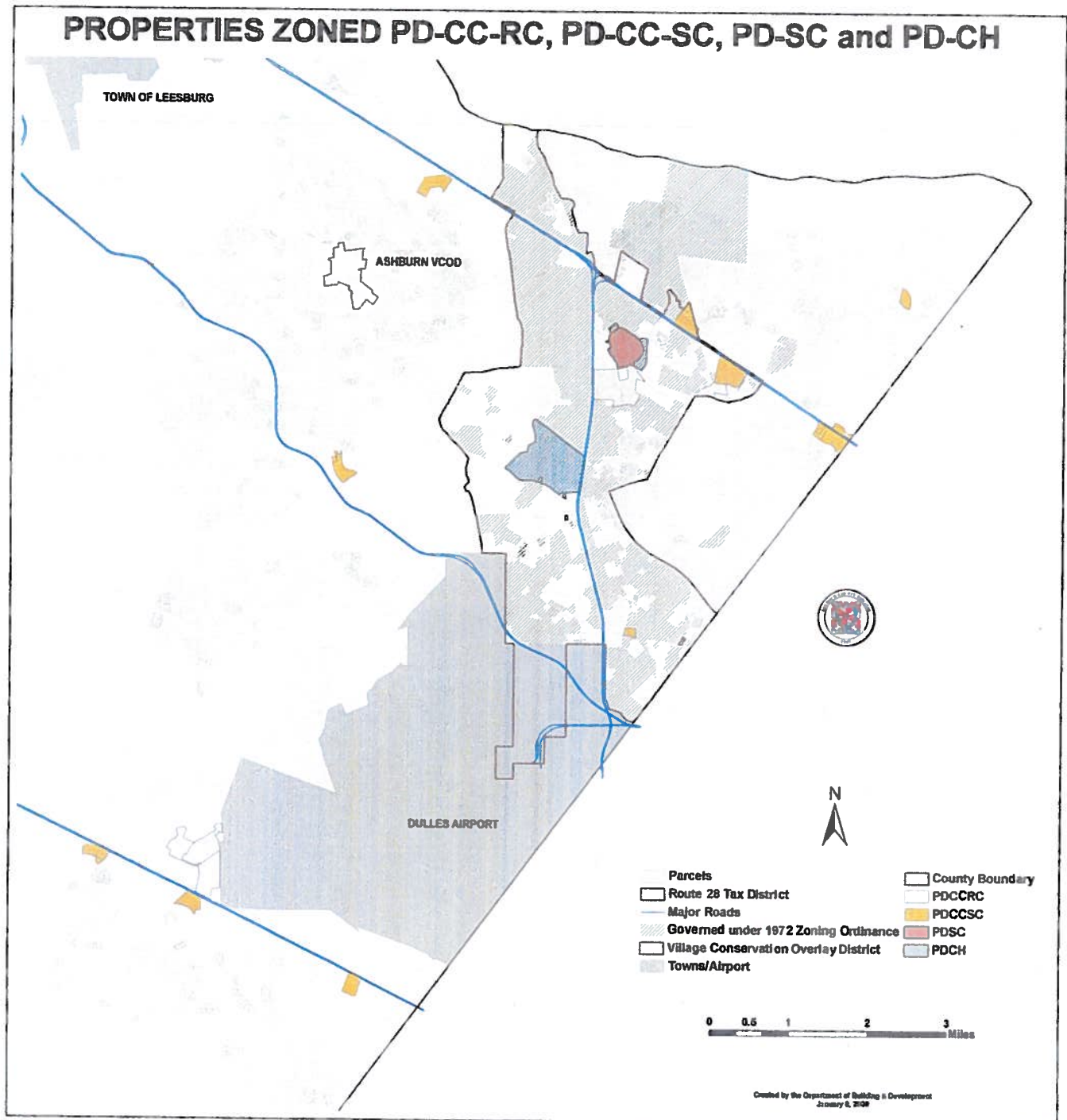
PD-MUB (Planned Development -- Mixed Use Business)

While there are active applications to rezone to PD-MUB there is currently nothing zoned PD-MUB.

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PROPERTIES ZONED PD-CC-RC, PD-CC-SC, PD-SC and PD-CH



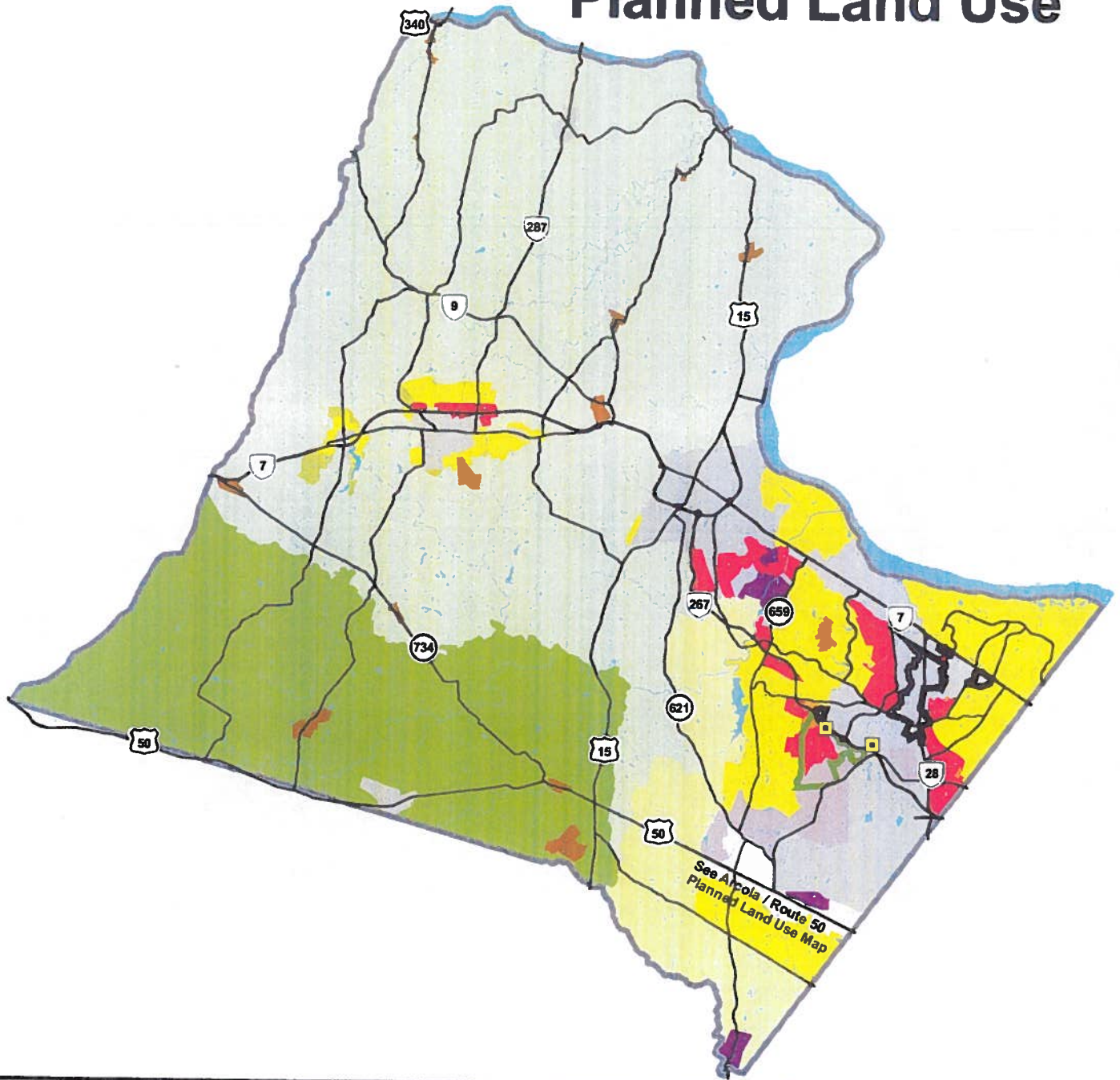
ATTACHMENT 5

A104

**Districts Permitting Retail Establishments
In Revised 1993 Loudoun County Zoning Ordinance**

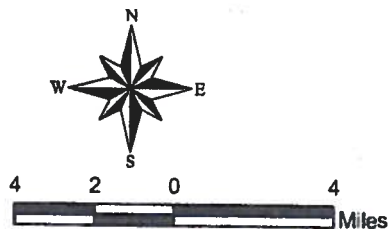
	Permitted Use	Special Exception Use
RC	Retail sales establishment, maximum 10,000 sq. ft.	Any use greater than 10,000 sq. ft.
CLI		Retail sales establishment
PD-CC(NC)	Retail sales establishment, Food store, Construction retail establishment	Any use greater than 5,000 sq. ft.
PD-CC(CC)	Retail sales establishment, Food store	Construction retail establishment
PD-CC(SC)	Retail sales establishment, Food store, Construction retail establishment	
PD-CC(RC)	Retail sales establishment, Food store, Construction retail establishment	
PD-TC Core	Retail sales establishment, Pharmacy, Food store	
Fringe	Retail sales establishment, Pharmacy, Food store, Construction retail establishment	
PD-TREC Inner Core	Retail sales establishment, excluding drive through facilities. No retail sales establishment located in a freestanding, single-story building shall contain more than 15,000 sq. ft.	
Outer Core	Retail sales establishment, excluding drive through facilities. No retail sales establishment located in a freestanding, single-story building shall contain more than 15,000 sq. ft.	Food store (10,000 sq. ft. or greater)
PD-TRC Inner & Outer Core	Retail sales establishment	
TDSA	Food store (10,000 sq. ft. or greater) A single retail use may not exceed 10,000 sq. ft.	Pharmacy, with drive-through facilities Any one use in excess of 10,000 sq. ft.
PD-MUB Commercial Uses	Retail sales establishments, excluding drive-throughs	Commercial uses, with drive-throughs

Planned Land Use



Planned Land Use

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- Rural - (Base Density 1 du/20 acres)
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- Rural - (Within Town JLMA)



- ★ Urban Center
- Major Roads
- Potential Transit Node Location
- Destination Retail Areas
- Special Activities Area
- County Boundary

Notes:

Revised July 23, 2001, amended through December 5, 2006.
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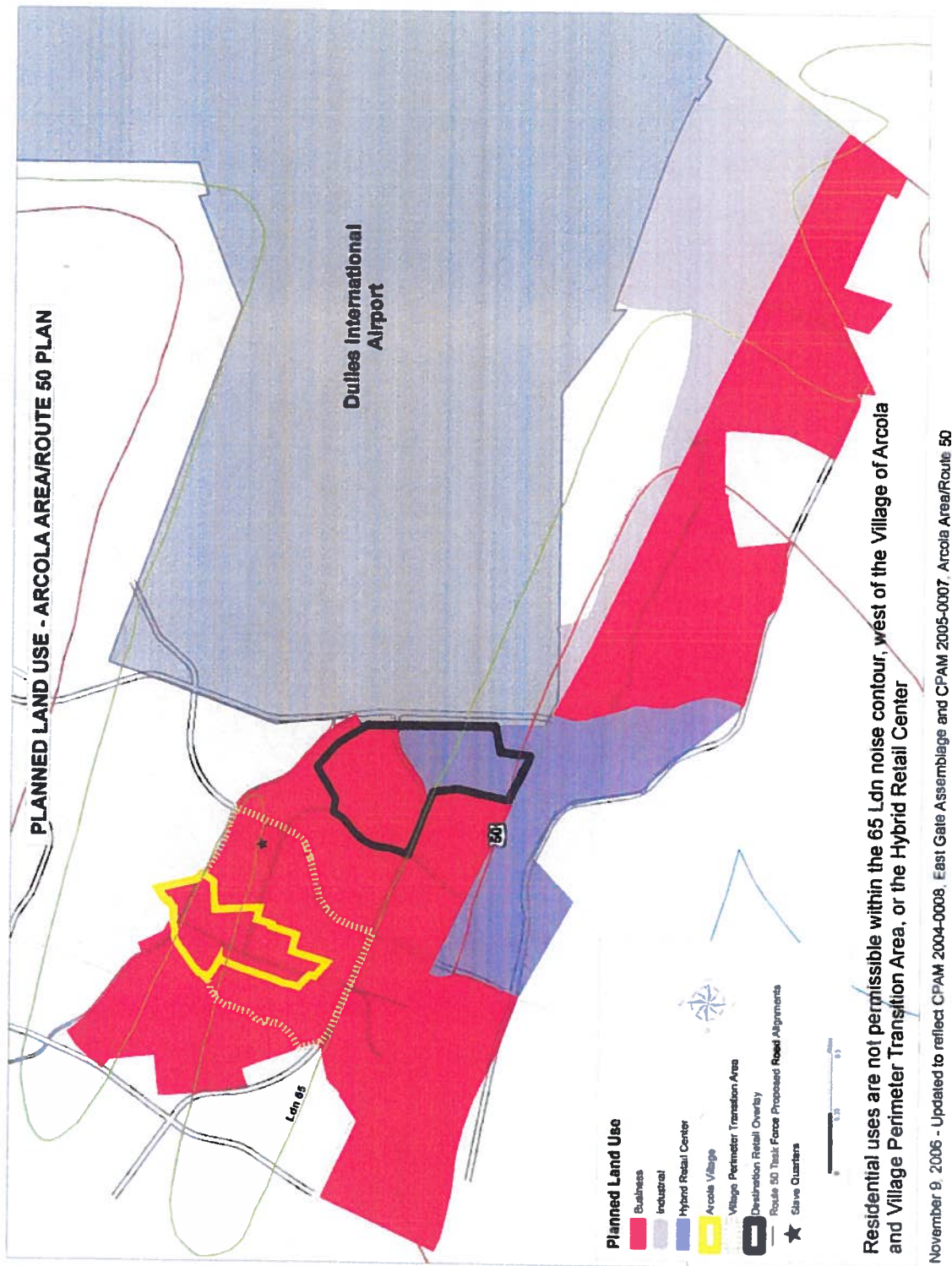
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Source: Loudoun County Planning Department and Office of Mapping and Geographic Information
Map Number 2007-019SM



County of Loudoun
Department of Planning
MEMORANDUM

DATE: December 29, 2010

TO: Michelle Lohr, Planning, Zoning Administration
Marilee Seigfried, Deputy Zoning Administrator

FROM: Kelly Williams, Planner III
Community Planning, Department of Planning

SUBJECT: **ZOAM 2010-0004, Amendments to the Zoning Ordinance**
Large Retail Establishments

BACKGROUND

On September 1, 2009, the Board of Supervisors adopted a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, to add "Large Retail Establishments" as a special exception use in certain districts. To assist the Zoning Division and the Planning Commission in developing the ZOAM, the Planning Department offers the following information related to the Comprehensive Plan.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Revised General Plan and other supporting documents and ordinances together comprise the Loudoun County Comprehensive Plan (Revised General Plan, Preface, text). The policies and methods of implementation of the Revised General Plan are intended to ensure the long-term fiscal balance of the County, to protect its environment and natural resources, to create high-quality communities, and to provide adequate levels of public services and facilities (Revised General Plan, Preface, Principles 1, 2, 4, 4, 5, 6, & 8). The Revised General Plan is the foundation for amendments to County ordinances to ensure that the County's goals are implemented through the regulatory process. It is anticipated that these ordinances and the Facilities Standards Manual will be updated so that they comply with the policies of the Revised General Plan (Revised General Plan, Chapter 1, Purpose and Definition, text).

As part of the Comprehensive Plan, the Countywide Retail Policy Plan Amendment (Retail Plan) outlines the differences between Service Area-Based retail uses which serve specific residential or employment communities and Corridor-Based Retail which provides locations for destination and/or freestanding retail. The size, format, and tenant makeup of retail uses depend on the size of the catchment area and the characteristics of the site (i.e., access, type of community, location, function). Large scale destination retail uses typically demand a regional market, and rely almost solely on automobile access. Therefore, they are planned to

be located along planned and future principal arterial corridors where the County's transportation network can best accommodate auto intensive retail uses. The policies of the Retail Plan pertaining to Corridor-Based Retail uses focus on mitigating the negative impacts of large scale retail development, accommodating new retail forms such as big box retail and warehouse clubs, and expanding opportunities for appropriate retail development in industrial areas.

The Retail Plan further anticipates a high quality architectural design for proposed retail developments, including the provision of recesses and offsets to reduce the building massing; a preference for pitched, mansard, and other distinctive roof forms; the screening of rooftop and/or ground-mounted mechanical equipment; and the provision of measures to provide pedestrian weather protection, such as a continuous arcade (*Retail Plan, Building Placement and Design, Policies 6-9*).

Requiring large scale retail uses larger than 75,000 square feet to be considered by Special Exception does not conflict with the policies outlined in the Revised General Plan or the Retail Plan. Further, the location criteria, site development criteria and design standards as proposed in Section 5-661, conform to the design guidelines as outlined in the Retail Plan and would help facilitate compatible retail design.

It appears that this ZOAM was originally initiated to create a mechanism where large freestanding destination retail uses would be evaluated on a case-by-case basis through the special exception process. If that is the intent of the proposal, several issues should be considered when evaluating this Zoning Ordinance Amendment:

- 1) This amendment will not only apply to freestanding, destination retail uses, but to anchor stores (i.e. grocery stores) within residential community shopping centers.
- 2) The proposed amendments would apply only to properties administered under the current zoning ordinance. The amendments will not apply to property within the Route 28 Tax District unless they elect to rezone into the current zoning ordinance. (as previously noted in the Transportation and Land Use Committee Action Item, January 26, 2009)
- 3) The proposed amendments would not apply to proffered shopping centers that anticipated large retail establishments on their concept plans. (as previously noted in the Transportation and Land Use Committee Action Item, January 26, 2009)
- 4) In most cases a property will be required to rezone to a commercial zoning district, in which the Board will have the opportunity to negotiate the terms of development in order to mitigate impacts. (as previously noted in the Transportation and Land Use Committee Action Item, January 26, 2009)
- 5) A benefit of the special exception process would be the ability to unilaterally apply conditions of approval rather than to rely on proffers to achieve compatible design. Building elevations are required as part of the checklist requirements for a special exception.

cc: Julie Pastor, AICP, Planning Director
Cindy Keegan, AICP, Program Manager, Community Planning, via e-mail

A109

COUNTY OF LOUDOUN
Departments of Economic Development

REFERRAL

DATE: January 3, 2011

TO: Michelle Lohr, Planner Zoning Administration

CC: Tom Flynn, Director of Economic Development

FROM: Philip Denino, Community Development Manager

SUBJECT: Amendments to the Zoning Ordinance – Large Retail Establishments (ZOAM 2010-0004)

Background

On September 1, 2009, the Board of Supervisors adopted a resolution of intent to amend the Revised 1993 Loudoun County Zoning Ordinance to add “Large Retail Establishments” as a special exception use in certain districts and to redefine the definition of big box stores to 75,000 square feet or larger. This must be carefully evaluated as it relates to retail growth and redevelopment. This referral offers suggestions for consideration by the Board of Supervisors in evaluating the proposed amendment.

The reasons stated for pursuing this amendment are, “to support local businesses, reduce traffic impacts, and minimize the monotony of single occupancy big box stores” per Attachment #1 dated September 1, 2009. The comments below are provided in light of these reasons.

Evaluation

The Mission of the Department of Economic Development (DED) is, “to promote economic growth and opportunity by attracting targeted new businesses, supporting existing businesses and cultivating our rural economy.” Successful economic development increases the community’s capacity to generate wealth; one result of this is a local government with the sustained fiscal strength necessary to develop a high quality community while keeping tax rates competitive.

Retail is important in communities to provide jobs, amenities and shopping near where we live. Big box stores are often critical for the overall success of the business model of a shopping center. If there are additional zoning restrictions that increase the length of time and cost required to get a deal done, it will serve as a disincentive as many retail business models require a single occupancy user over 75,000 square feet to make the economics of the deal work.

Key questions or issues from the economic development perspective include:

- How was the figure of 75,000 square feet chosen as the threshold?
- Are existing centers grandfathered and therefore exempt from this ordinance? This is a key issue for the eventual redevelopment of older shopping centers.
- The special exception process is time and resource consuming for the developer. An alternative approach is an ordinance that establishes standards for big boxes that can be administered

Department of Economic Development Referral

through the site planning process. This would provide more certainty to the development community.

- Was this intended for stand-alone big box buildings that do not share parking with any other tenants? Should it be considered differently when part of a larger shopping center?
- We are not aware of any projects in development that this amendment would apply assuming Dulles Landing and Arcola Center has already been approved. If there are no known projects that this amendment would apply is the cost/benefit of this additional regulation justified?
- It does not reinforce the message that we are trying to create a "Prosperous business environment."

A potential unintended consequence of this proposed amendment is...

Would this amendment apply to existing shopping centers or only new ones? For example, if there is an existing store at 65,000 square feet and they want to expand into an adjacent property bringing their total to 80,000 square feet, would the new amendment be applicable? If yes, it could have a chilling effect on existing shopping centers that may want to redevelop, particularly in older areas of the County. If it does not apply, it gives the older centers (and any in the Route 28 zoning) a competitive advantage against any new construction where the new amendment will apply.

Existing centers have already been through the approval process where traffic has been addressed. If this amendment should apply to existing centers it will be more difficult to attract replacements in the event an existing big box store goes out of business due to the increased cost and time associated with the special exception. It could result in extended periods of time where large stores sit vacant and shopping centers underperform because of the difficulty in recruiting new tenants.

Retailers are constantly "tweaking" their prototype store size, formats and product lines to come up with an optimal revenue generating store. If an existing big box store wishes to expand to a square footage that is more prototypical, but is either unwilling or unable given the special exception process, they may opt to instead leave their current location and relocate to a neighboring county resulting in leakage to the tax base and leaving a vacant eyesore.

Conclusion:

Amending the zoning ordinance to define large retail establishments as 75,000 square feet or larger and requiring a special exception for all large retail should be evaluated based on the individual site to ensure business growth is not curtailed. If the intent was to limit the number of free standing big box stores that do not share parking or egress with other tenants then the amendment should be clarified. The Department of Economic Development cautions against moving forward with this amendment before these questions are addressed.